

**IN THE UNITED STATES DISTRICT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

| | | |
|-------------------|---|-----------------------|
| JOHN THOMSON | : | |
| | : | CASE NO. 1:23-cv-99 |
| Plaintiff | : | |
| | : | STATE COURT CASE NO.: |
| v. | : | 49D01-2212-PL-042706 |
| | : | |
| ROCHE DIAGNOSTICS | : | JUDGE |
| CORPORATION | : | |
| | : | |
| Defendant. | : | |

DEFENDANT’S NOTICE OF REMOVAL

Pursuant to 28 USC §§ 1332, 1441 and 1446, Defendant Roche Diagnostics Corporation (“Defendant”) – the sole defendant in this action – by and through its undersigned counsel, hereby files this Notice of Removal to this Court of an action pending against it in the Marion County, Indiana Superior Court. Removal is based on the following grounds:

1. On December 13, 2022, Plaintiff John Thomson (“Plaintiff”) commenced an action against Defendant in the Marion County, Indiana Superior Court, in a case captioned *John Thomson v. Roche Diagnostics Corporation*, Case No. 49D01-2212-PL-042706 (hereinafter, the “State Court Action”).

2. Attached hereto as Exhibit 1 are true and correct copies of the Complaint, the Notice of Exclusion filed by Plaintiff, the Docket, and the Summons. Plaintiff filed Exhibits A-D to the state court Complaint under seal in state court (see Notice of Exclusion). Defendant has not filed the exhibits to the Complaint with this filing. Defendant will work with the Court to determine how the exhibits should be filed in federal court.

3. All pleadings in the State Court Action have been attached to this removal.

4. There is only one defendant in this action.

TIMELY REMOVAL

5. On December 19, 2022, Plaintiff served a Summons and a copy of the Complaint on Defendant. The date of service (December 19, 2022) is stated on Plaintiff's Return of Service and Certificate of Issuance of Summons to Roche filed in state court on December 27, 2022, which is attached hereto as Exhibit 2.

6. This Notice of Removal is being filed within thirty (30) days after Defendant was served with the Summons and Complaint (December 19, 2022) in the State Court Action and, therefore, is timely pursuant to 28 U.S.C. § 1446(b).

JURISDICTION AND VENUE

7. The State Court Action is not a non-removable action as described in 28 U.S.C. § 1445.

8. This Court has jurisdiction under 28 U.S.C. § 1332.

9. Plaintiff is a resident of the State of Georgia.

10. Defendant is a corporation organized under the laws of the State of Indiana with its principal office located at 9115 Hague Road, Indianapolis, IN 46256.

11. Plaintiffs seek monetary relief and damages in excess of \$75,000. Plaintiff asserts causes of action for breach of contract which seek damages totaling \$121,636.00 and one cause of action for lost wages alleging damages of \$76,250.00. Plaintiff also prays for a liquidated damages penalty, pre- and post-judgment interest and attorneys' fees. Thus, it is apparent from the face of the Complaint that the amount in controversy exceeds \$75,000. Accordingly, this Court has original diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332.

12. Venue is proper in the United States District Court for the Southern District of Indiana, Indianapolis Division pursuant to 28 U.S.C. §§ 1391 and 1441(a), because it encompasses the county in which this action is currently pending.

NOTICE

13. Pursuant to 28 U.S.C. § 1446(d), promptly upon the filing of this Notice, Defendant will serve written notice of removal to the Plaintiff through his counsel and Defendant will file a copy of this Notice of Removal with the Clerk of Court for the Marion County, Indiana Superior Court. A copy of Defendant's Notice to State Court of Removal of Action to Federal Court is attached hereto as Exhibit 3.

WHEREFORE, Defendant hereby removes this action now pending against it in the Marion County, Indiana Superior Court 1, to this Honorable Court, and requests that this Court retain jurisdiction for all further proceedings.

Respectfully submitted,

/s/ John D. Meyer

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of January 2023, the foregoing was filed through the Court's CM/ECF electronic filing system. A copy of this filing will be sent to all parties through the court's ECF system. If a party is not registered with the court's ECF system, a true and correct copy will be sent via email and U.S. Mail, postage prepaid, upon the following:

Kathleen DeLaney
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Attorneys for Plaintiff

/s/ John D. Meyer
John D. Meyer
Attorney for Defendant